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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,592	12/21/2000	Gerard M. O'Keeffe	6544-1000	8981

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EXAMINER

KARMIS, STEFANOS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,592

Applicant(s)

O'KEEFFE ET AL.

Examiner

Stefano Karmis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following application has been reviewed. Original claims 1-75 are pending. The rejection is as stated below:

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 13-15, 24, 33-36, 46-47, 56, 65-66 and 75 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedy U.S. Patent 6,260,024.

Regarding independent claims 1 and 33, Shkedy discloses a method for facilitating buyer-driven purchase orders for tickets comprising distributing event tickets allocated to a first distribution pool in accordance with a decreasing selling price auction distribution, and, upon completion of said auction distribution; distributing event tickets allocated to at least a second distribution pool (column 28, lines 62 thru column 29, line 24).

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Claims 2 and 34, distributing the tickets required determining an initial size for the first distribution pool; establishing an initial selling price for the event tickets in the first distribution pool; and determining a price decrement amount for the decreasing selling price auction (column 12, line 56 thru column 3, line 6 and column 16, line 62 thru column 17, line 22).

Claims 3 and 35, wherein distributing event tickets comprises collecting and recording transaction information related to said decreasing selling price auction distribution; dynamically determining selling price decrement amount based, at least in part, upon said transaction information; and dynamically determining relative sized of said at least first and second distribution pools based, at least in part, upon said transaction information (column 12, line 56 thru column 3, line 6 and column 16, line 62 thru column 17, line 22).

Claim 4 and 36, dynamically determining a termination time for the step of distributing event tickets in accordance with a decreasing selling price auction (column 14, lines 7-25).

Claim 13 and 45, event tickets remaining in the first distribution pool are reallocated to the second distribution pool at said termination time (column 6, lines 30-40).

Claims 14, 46, and 65, Shkedy discloses a method for facilitating buyer-driven purchase orders for tickets comprising distributing event tickets allocated to a first distribution pool in accordance with a decreasing selling price auction distribution, and, upon completion of said auction distribution; distributing event tickets allocated to at least a second distribution pool

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(column 28, lines 62 thru column 29, line 24). Distributing the tickets required determining an initial size for the first distribution pool; establishing an initial selling price for the event tickets in the first distribution pool; and determining a price decrement amount for the decreasing selling price auction (column 12, line 56 thru column 3, line 6 and column 16, line 62 thru column 17, line 22). Distributing event tickets comprises collecting and recording transaction information related to said decreasing selling price auction distribution; dynamically determining selling price decrement amount based, at least in part, upon said transaction information; and dynamically determining relative sized of said at least first and second distribution pools based, at least in part, upon said transaction information (column 12, line 56 thru column 3, line 6 and column 16, line 62 thru column 17, line 22). Dynamically determining a termination time for the step of distributing event tickets in accordance with a decreasing selling price auction (column 14, lines 7-25) and event tickets remaining in the first distribution pool are reallocated to the second distribution pool at said termination time (column 6, lines 30-40).

Claims 15, 47 and 66, dynamically determining a termination time for the step of distributing event tickets in accordance with a decreasing selling price auction (column 14, lines 7-25).

Claim 24, 56 and 75, event tickets remaining in the first distribution pool are reallocated to the second distribution pool at said termination time (column 6, lines 30-40).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 5-12, 16-23, 25-32, 37-45, 48-55, 57-64, and 67-74 rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy U.S. Patent 6,260,024 in view of Brown U.S. Patent 5,794,219.

Claim 5 and 37, Shkedy teaches distributing event tickets allocated to at least a second distribution pool (column 28, line 61 thru column 29, line 18). Shkedy fails to teach that the distribution to the at least a second distribution pool is performed by a lottery distribution.

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Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention that the teachings of Shkedy could be modified to include a lottery system to distribute tickets to the at least second distribution pool because both Shkedy and Brown both provide a bid pooling method in which purchased items need to be transferred from a first pool to a second pool and this allows for an alternate method for the customers as taught by Shkedy to obtain the tickets from a first pool at a discounted price.

Claims 6 and 38, Shkedy teaches collecting and recording participant information, collecting and recording ticket request information, including number of tickets requested by each lottery participant and identifying participants to who tickets are distributed (column 13, line 35-43). Shkedy fails to teach that the distribution to the at least a second distribution pool is performed by a lottery distribution. Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention that the teachings of Shkedy could be modified to include a lottery system to distribute tickets to the at least second distribution pool because both Shkedy and Brown both provide a bid pooling method in which purchased items need to be transferred from a first pool to a second pool and this allows for an alternate method for the customers as taught by Shkedy to obtain the tickets from a first pool at a discounted price.

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Claims 7-11 and 39-43, Shkedy teaches collecting and recording participant information, collecting and recording ticket request information, including number of tickets requested by each lottery participant and identifying participants to who tickets are distributed (column 13, line 35-43). Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65). Shkedy and Brown both fail to provide predetermined weighted criteria such as geographic location, association membership, participation history and selection criteria influence the random selection of the lottery. Official Notice is taken that providing a weighted criteria is old and well known in the financial arts. Therefore it would be obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Brown to include factoring in predetermined weighted criteria such as geographic location, association membership, participation history and selection criteria to influence the random selection of the lottery because these criteria all affect the transaction process in conjunction with the lottery distribution and can provide subtle guidelines to a random lottery for the winning group as taught by Brown.

Claims 12 and 44, the step of collecting and recording participant information includes charging each participant a predetermined subscription fee (column 18, lines 23-36).

Claims 16, 48 and 67, Shkedy teaches distributing event tickets allocated to at least a second distribution pool (column 28, line 61 thru column 29, line 18). Shkedy fails to teach that the distribution to the at least a second distribution pool is performed by a lottery distribution.

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Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention that the teachings of Shkedy could be modified to include a lottery system to distribute tickets to the at least second distribution pool because both Shkedy and Brown both provide a bid pooling method in which purchased items need to be transferred from a first pool to a second pool and this allows for an alternate method for the customers as taught by Shkedy to obtain the tickets from a first pool at a discounted price.

Claims 17, 49 and 68, Shkedy teaches collecting and recording participant information, collecting and recording ticket request information, including number of tickets requested by each lottery participant and identifying participants to who tickets are distributed (column 13, line 35-43). Shkedy fails to teach that the distribution to the at least a second distribution pool is performed by a lottery distribution. Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention that the teachings of Shkedy could be modified to include a lottery system to distribute tickets to the at least second distribution pool because both Shkedy and Brown both provide a bid pooling method in which purchased items need to be transferred from a first pool to a second pool and this allows for an alternate method for the customers as taught by Shkedy to obtain the tickets from a first pool at a discounted price.

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Claims 18-22, 50-54 and 69-73, Shkedy teaches collecting and recording participant information, collecting and recording ticket request information, including number of tickets requested by each lottery participant and identifying participants to who tickets are distributed (column 13, line 35-43). Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65). Shkedy and Brown both fail to provide predetermined weighted criteria such as geographic location, association membership, participation history and selection criteria influence the random selection of the lottery. Official Notice is taken that providing a weighted criteria is old and well known in the financial arts. Therefore it would be obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Brown to include factoring in predetermined weighted criteria such as geographic location, association membership, participation history and selection criteria to influence the random selection of the lottery because these criteria all affect the transaction process in conjunction with the lottery distribution and can provide subtle guidelines to a random lottery for the winning group as taught by Brown.

Claims 23, 55 and 74, the step of collecting and recording participant information includes charging each participant a predetermined subscription fee (column 18, lines 23-36).

Claims 25 and 57, Shkedy discloses a method for facilitating buyer-driven purchase orders for tickets comprising distributing event tickets allocated to a first distribution pool in accordance with a decreasing selling price auction distribution, and, upon completion of

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said auction distribution; distributing event tickets allocated to at least a second distribution pool (column 28, lines 62 thru column 29, line 24). Distributing the tickets required determining an initial size for the first distribution pool; establishing an initial selling price for the event tickets in the first distribution pool; and determining a price decrement amount for the decreasing selling price auction (column 12, line 56 thru column 3, line 6 and column 16, line 62 thru column 17, line 22). Distributing event tickets comprises collecting and recording transaction information related to said decreasing selling price auction distribution; dynamically determining selling price decrement amount based, at least in part, upon said transaction information; and dynamically determining relative sized of said at least first and second distribution pools based, at least in part, upon said transaction information (column 12, line 56 thru column 3, line 6 and column 16, line 62 thru column 17, line 22). Dynamically determining a termination time for the step of distributing event tickets in accordance with a decreasing selling price auction (column 14, lines 7-25) and event tickets remaining in the first distribution pool are reallocated to the second distribution pool at said termination time (column 6, lines 30-40).

Shkedy teaches distributing event tickets allocated to at least a second distribution pool (column 28, line 61 thru column 29, line 18). Shkedy fails to teach that the distribution to the at least a second distribution pool is performed by a lottery distribution. Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention that the teachings of Shkedy could be modified to include a lottery system to distribute tickets to the at least second distribution pool because both Shkedy and Brown both provide a bid pooling method in which

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purchased items need to be transferred from a first pool to a second pool and this allows for an alternate method for the customers as taught by Shkedy to obtain the tickets from a first pool at a discounted price.

Shkedy teaches collecting and recording participant information, collecting and recording ticket request information, including number of tickets requested by each lottery participant and identifying participants to who tickets are distributed (column 13, line 35-43). Shkedy fails to teach that the distribution to the at least a second distribution pool is performed by a lottery distribution. Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention that the teachings of Shkedy could be modified to include a lottery system to distribute tickets to the at least second distribution pool because both Shkedy and Brown both provide a bid pooling method in which purchased items need to be transferred from a first pool to a second pool and this allows for an alternate method for the customers as taught by Shkedy to obtain the tickets from a first pool at a discounted price.

Claims 26-30 and 58-62, Shkedy teaches collecting and recording participant information, collecting and recording ticket request information, including number of tickets requested by each lottery participant and identifying participants to who tickets are distributed (column 13, line 35-43). Brown teaches a method of conducting an on-line auction with bid pooling in which the purchased items from the first pool are distributed by a lottery (column 3, lines 55-65). Shkedy and Brown both fail to provide predetermined weighted criteria such as

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geographic location, association membership, participation history and selection criteria influence the random selection of the lottery. Official Notice is taken that providing a weighted criteria is old and well known in the financial arts. Therefore it would be obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Brown to include factoring in predetermined weighted criteria such as geographic location, association membership, participation history and selection criteria to influence the random selection of the lottery because these criteria all affect the transaction process in conjunction with the lottery distribution and can provide subtle guidelines to a random lottery for the winning group as taught by Brown.

Claims 31 and 63, the step of collecting and recording participant information includes charging each participant a predetermined subscription fee (column 18, lines 23-36).

Claims 32 and 64, event tickets remaining in the first distribution pool are reallocated to the second distribution pool at said termination time (column 6, lines 30-40).

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

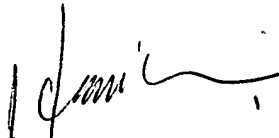
a) Anderson et al., US Patent 6,671,674 Dec. 30, 2003. Computer-based auction and sale system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
10 February 2004



HANI M. KAZIMI
PRIMARY EXAMINER